

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

JOHN DOE, )  
                )  
Plaintiff, )  
                )  
v.             )              **Case No. 7:21cv378**  
                )  
VIRGINIA POLYTECHNIC INSTITUTE )  
AND STATE UNIVERSITY, et al., )  
                )  
Defendants. )

**MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)**

Defendants Virginia Polytechnic Institute and State University ("Virginia Tech"), Timothy Sands ("Sands"), Alexey Onufriev ("Onufriev"), and Tamara Cherry-Clarke ("Cherry-Clarke") (collectively "Defendants"), by counsel, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, move this Court for entry of an Order dismissing the claims against them *with prejudice* for the reasons set forth in the accompanying Memorandum of Law.

Respectfully submitted,

VIRGINIA POLYTECHNIC INSTITUTE AND  
STATE UNIVERSITY, TIMOTHY SANDS, ALEXEY  
ONUFRIEV, and TAMARA CHERRY-CLARKE

/s/  
Katherine C. Londos (VSB #: 36848)  
Nathan H. Schnetzler (VSB #: 86437)  
FRITH ANDERSON + PEAKE, P.C.  
29 Franklin Road, SW  
P.O. Box 1240  
Roanoke, Virginia 24006-1240  
Phone: 540/772-4600  
Fax: 540/772-9167  
Email: klondos@faplawfirm.com  
nschnetzler@faplawfirm.com

Kay Heidbreder (VSB No.: 22288)  
University Legal Counsel and  
Senior Assistant Attorney General  
*heidbred@vt.edu*  
M. Hudson McClanahan (VSB No.: 46363)  
*hud3@vt.edu*  
Kristina J. Hartman (VSB No.: 92279)  
*kjhart06@vt.edu*  
Stephen F. Capaldo (VSB No.: 74045)  
*scapaldo@vt.edu*  
Associate University Legal Counsel and  
Assistant Attorney General  
University Legal Counsel (0121)  
Burruss Hall, Suite 236, Virginia Tech  
800 Drillfield Drive  
Blacksburg, VA 24060  
Phone: (540) 231-6293  
Fax: (540) 231-6474

*Counsel for Defendants*



**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all counsel of record.

/s/ Nathan H. Schnetzler

Of Counsel

